



August 17, 2002

Camie Swanson-Hull
Commissioner
Indiana Utility Regulatory Commission
Indiana Government Center South
302 W. Washington Street, # E-306
Indianapolis, IN 46204

Dear Commissioner Swanson-Hull:

The coming months could prove to be pivotal to the development of widespread, meaningful local telecommunications competition throughout the nation. Decisions made on the federal level could adversely affect state regulators' ability to make decisions about how to bring choice to their residents. On behalf of the Competitive Telecommunications Association (CompTel), I am writing to alert you that, despite the advent of competitive local telephone service on a national basis since the passage of the Telecommunications Act of 1996, several proceedings are underway at the Federal Communications Commission (FCC) that threaten the long-term growth of local competition in every state.

Of particular importance is the FCC's *Triennial Review of Unbundled Network Elements (UNEs) Rulemaking* (CC Docket Nos. 96-98, 98-147, 01-338). This proceeding could hinder all competitors' opportunities to bring choice, innovation and savings to customers of all types and sizes. Additionally, depending on the FCC's final rules, state regulators could be prevented from developing state-specific policies that would allow competition to continue to flourish within your borders.

The *Triennial UNE Review* proceeding potentially threatens the current minimum list of elements that the incumbent Bell companies are required to provide to competitive carriers. Without some of these basic elements, it would be impossible for competitors to reach their customers and provide unique, feature-rich services. Also, in the absence of robust competition, incumbent carriers would feel no pressure to improve service quality or reduce rates.

Incumbent local exchange carriers are attempting to convince the FCC to remove some of the current UNEs – particularly unbundled local switching (ULS) – from the minimum list of elements that incumbents are required to provide. If this happens, the existing UNE Platform (UNE-P), which includes a loop, switching and transport, would no longer be available, taking viable alternative offerings with it. Many competitive service providers rely on UNE-P to offer local service packages that are different from those offered by the incumbents. Rather than removing specific elements from the list and harming the availability of UNE-P, we believe that UNE-P must be preserved and, in fact, broadened through elimination of ULS restrictions. Without such limits, residential and small business customers who might not otherwise have a choice of service provider could reap the benefits of competition.

As you know, the National Association of Regulatory Utility Commissioners (NARUC) recognizes the need to preserve UNE-P. In fact, NARUC passed a resolution at its 113th Annual Convention in Philadelphia in November 2001 that encouraged states to ensure that their implementation of the Telecommunications Act of 1996 – including rates, terms and conditions available under interconnection agreements and state access regulations – does not favor one method of competitive entry at the expense of other methods, such as UNE-P.

NARUC also believes that states should be able to add to the federally mandated list of UNEs, based on state regulators' intimate knowledge of their markets and the specific needs of competitors to provide service in those markets. To that end, NARUC's UNE-P resolution urged state commissions to take an active role in studying and ensuring that mass market, residential and small business consumers enjoy the benefits of local competition promised by the 1996 Telecom Act.

Regulators in several states are already doing just that. In these states, the role that UNE-P plays in the development of meaningful competition is remarkably clear. States that have adopted aggressive wholesale rates for UNEs and removed the limitations that the FCC placed on local switching are experiencing remarkable competitive growth.

New York is a prime example, with CLEC penetration rates hitting approximately 27 percent – the highest in the nation – at the beginning of 2002. The main reason: there are no restrictions on ULS and the New York Public Service Commission made UNE-P available throughout the state. Other states, such as Texas, have lifted the FCC's ULS restrictions and are experiencing a competitive groundswell similar to that in New York. Georgia and Tennessee, as well, are examining whether to broaden the availability of ULS in hopes of ensuring that competitive options are available to their residents.

With these types of pro-competition policies in place in many states, competitive service providers have been able to use UNE-P to develop unique offerings that are winning residential and small business customers – two classes of customers who, in the past, have not been able to benefit fully from telecommunications alternatives.

CompTel represents many competitors that rely on UNE-P to bring choice to consumers. The executives of these companies understand how to use components of the existing public switched telephone network, in combination with their own technology and infrastructure, to deliver services that consumers want to purchase. Enclosed with this letter is a series of fact sheets that will provide you with details about how many of CompTel's member companies use UNE-P to successfully serve hundreds of thousands of residential and small business customers.

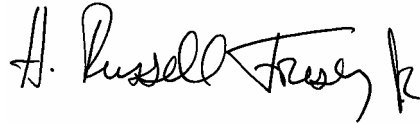
Moreover, as competition grows, prices are dropping. Just look at what's happening in Michigan. With more than 40 alternative providers in the state serving about 900,000 lines, SBC was forced to cut the cost of its basic local service by one-third in order to effectively compete. SBC's price reductions alone are expected to save its customers about \$26 million a year. (Editorial, *Competition Keeps Calling, But Local Bells Resist*, USA TODAY, July 17, 2002.) It is important to note that Michigan consumers are enjoying these benefits based on the efforts of the Michigan Public Service Commission, which has established some of the most aggressive UNE rates and unbundling policies in the nation.

CompTel believes that it is important that the states continue to stress to federal regulators that existing UNEs, including ULS, should be preserved, and perhaps even expanded, if residential and small

business customers are to have competitive choices. Furthermore, states should play a significant role in helping the FCC set the national minimum list of UNEs, because states understand the needs of their jurisdictions and are in the best position to thoroughly evaluate whether competitors' service would be impaired without access to specific elements. In fact, we believe it would be improper for the FCC to impose prescriptive national unbundling requirements on state commissions when the FCC-mandated requirements are based on lesser evidentiary standards than those used by state regulators in their decision-making processes. Already many states have found that existing national minimum unbundling requirements are insufficient to allow competition to flourish. For that reason, states have imposed additional unbundling related to advanced services and new networks, as well as local switching.

CompTel urges you to maintain your role in national telecommunications policy. Decisions being made at the FCC ultimately will affect the way you are able to make decisions and foster competition within your state. State regulators should have a seat at the table when it comes to any future changes to the existing list of UNEs. We also believe that state regulators need to examine what elements – beyond the national minimum – are needed to ensure that local competition can prosper. These actions are necessary and vital to ensure that the residents in your state are afforded the benefits of competition promised by the Telecommunication Act of 1996.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Russell Frisby, Jr." with a stylized flourish at the end.

H. Russell Frisby, Jr.
President

enclosures